IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5049 OF 2005

State of Maharashtra ..Applicant.

Vs.

Chandrashekhar Narayan Birhade
and anr. ..Respondents

Mr. P.A. Pol, APp for applicant-State.
Mr. Gajendrasingh Jadhav for respondents.

CORAM: B.H. MARLAPALLE, J.

Date : October 12, 2007.

P.C.:

1. Heard Mr. Pol the learned APP. Perused the R & P and more particularly the depositions of PW 5 Dr. Pitambar Jadhav who had admitted the deceased in Bytco Hospital run by the Nashik Municipal Corporation on 26/11/2003 at about 12 noon and noted that she had sustained 42% burn injuries. It has come in his evidence that she was under his treatment from 29/11/2003 and was discharged on the same day against the medical advise. He also stated that the husband of the deceased i.e. accused no.1 was also admitted in the said hospital on the same day and time and he had come with the history that while extinguishing the

fire on the person of his wife he had sustained injuries. The burn injuries on his body were to the extent of 20% and he was discharged on 11/12/2003. The Doctor was subjected to cross-examination. In his depositions he clearly stated that deceased Madhuri was fully conscious, well oriented and mentally sound when she was admitted and she stated that while she was boiling water on stove, it flickered and her saree caught fire. PW 2 Vamanrao Pagare, the father of the deceased and who was working as a Peon in the office of CID, Crime, Nashik filed the FIR only after Madhuri succumbed to the burn injuries on 5/12/2003. The FIR was lodged on 9/12/2003.

2. Having regards to the oral and documentary evidence that was adduced by the prosecution, I am satisfied that the reasoning set out by the trial court in support of the order of acquittal does not warrant reconsideration at the hands of this court.

3. Hence, leave to appeal is refused and the application is rejected.

(B.H. Marlapalle,J.)